IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.145 OF 2007
IN
CRIMINAL WRIT PETITION NO.2019 OF 2006

Darshan Dev Duggal .. Applicant.
Vs.
State of Maharashtra & Ors. .. Respondents.

Applicant present in person.
Mr.Manish Kenia i/b N.K.Dayashandan for respondent no.4.
Mr.C.U.Singh i/b Sanjay Udeshi for respondent no.5.
Mrs.U.V.Kejariwal APP for the State.

CORAM : SMT.RANJANA DESAI &
D.B.BHOSALE, JJ.
DATED : 6TH JUNE, 2007.

P.C.:

. Heard the applicant in person, learned counsel for respondent nos.4 and 5 and learned A.P.P. for the State.

2. Mr.Singh, learned senior counsel for respondent no.5 at the outset invited our attention to paragraph 14 of the application and raised strong objection to the statements made therein. Paragraph 14 of the civil application reads thus:

> "14. That after the order had been passed by this Honourable Court on 22nd March, 2007 advocate Sanjay Udeshi requested the court to ask the petitioner to withdraw his complaint lodged against him at the Colaba police station. At this, the lady judge on the bench said, "You withdraw your complaint". The petitioner told Her Honour that his conscience did not permit him to withdraw the

> complaint. Her Honour said, "I will then not sign my order."

3. He submitted that the utterances in paragraph 14 attributed to the court are not only false but incorporation of such utterances in the application is contemptuous. We categorically remember that the applicant on his own undertook to withdraw the complaint filed against the advocate and that neither of us stated that "I will then not sign my order". Having confronted with this the applicant prayed for withdrawal of the utterances mentioned in paragraph 14 unconditionally. He submitted that these utterances were mentioned due to some confusion in his mind. His statement is accepted and he is directed to delete the objectionable part from paragraph 14 within one week from today. We deprecate the practise of attributing such utterances to the court. However, looking to the age of the petitioner, who appears in person, and unconditional withdrawal of the statement, we would not like to precipitate the matter further.

4. In this application the applicant has made the following prayers:

> "(a) That a complaint U/s.193 I.P.C. be filed against advocate Sanjay Udeshi for knowingly making the following false statement during the hearing of the Writ Petition on 22nd March, 2007:-

"The Petitioner sold his 450 shares of Tamil Nadu Dadha Pharmaceuticals Ltd. to Shri Vaman Puranik on 20.12.1991. The petitioner handed over the share certificate to Shri Vaman Puranik on 20.12.1991 alongwith two duly executed Share Transfer Forms and received from his cheque No.401362 for Rs.20,587/- dated 31.12.1991."

(b) That the investigation of cheque No.401362 for Rs.20,587/- dated 31.12.1991 be handed over to the Detection of Crime Branch (C.I.D.)

(c) That this Honourable Court's order dated 22nd March, 2007 in the above Writ Petition be corrected by striking out its paragraph No.8."

5. Let us note that this application is filed by the applicant after more than a month in a disposed of writ petition. The writ petition came to be disposed of by speaking order dated 22.3.2007. In this order we have recorded the statement/s of learned counsel for the parties as also of the applicant. The statement, allegedly made by Mr.Udeshi, learned advocate, does not find place in our order dated 22.3.2007. Mr.Singh, learned senior counsel holding for Mr.Sanjay Udeshi, advocate on record submits that no such statement as alleged by the applicant was ever made by Mr.Udeshi. He submitted that the statements made by Mr.Udeshi are clearly reflected in the order dated 22.3.2007. We are in agreement with the submissions of Mr.Singh. In the circumstances prayer clause (a) in the

application is rejected. Insofar as prayer clause (b) is concerned, the same is misconceived and devoid of any merits and is rejected as such.

6. The applicant also seeks to striking out paragraph 8 in the order dated 22nd March, 2007. Paragraph 8 of the order reads thus:

> "8. We are also informed that the petitioner has filed a complaint against Mr.Udeshi, learned counsel for respondent 5, at the Colaba Police Station. The petitioner undertakes that he will withdraw the complaint which he has made against Mr.Udeshi, the learned counsel for respondent 5."

7. We have recorded the undertaking of the petitioner given by him in the open court. This undertaking was given by the petitioner/applicant voluntarily and, therefore, we find no reason to delete this paragraph, as prayed for, from our order dated 22.3.2007. In the circumstances all the three prayers made by the applicant in this application are rejected. The criminal application is disposed of.

(SMT.RANJANA DESAI, J.)

(D.B.BHOSALE, J.)